



lighting, visual effects, editing, color grading, DVD authoring, and web preparation.<sup>1</sup> Violent Hues owns, operates, and is solely responsible for content displayed on the commercial websites [www.violenthues.com](http://www.violenthues.com), and [www.novafilmfest.com](http://www.novafilmfest.com).

3. On information and belief, Mico is an individual and serves as Executive Director of the Northern Virginia (NOVA) International Film and Music Festival.<sup>2</sup> Mico owns, operates, and is solely responsible for content displayed on the commercial websites [www.violenthues.com](http://www.violenthues.com), and [www.novafilmfest.com](http://www.novafilmfest.com).

#### JURISDICTION AND VENUE

4. This is a civil action seeking damages for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.).
5. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).
6. Jurisdiction and venue are proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendants engaged in infringement in this district, Defendants reside in this district, and Defendants are subject to personal jurisdiction in Virginia and this district.

#### FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

7. Hanus captured the photograph, “Boeing B-29 Superfortress Enola Gay” (“Copyrighted Photograph”) on October 10, 2011 at the Steven F. Udvar-Hazy Center in Chantilly, Virginia. [Exhibit 1].

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<sup>1</sup> [www.violenthues.com/OurServices.html](http://www.violenthues.com/OurServices.html)

<sup>2</sup> *Id.*

8. On or about November 1, 2011, Hanus posted Copyrighted Photograph to the following URL:

- [www.123rf.com/stockphoto/enola\\_gay.html?imgtype=0&oriSearch=boeing&sti=mom1o65nb517q5mi1c%7C&mediapopup=11988161](http://www.123rf.com/stockphoto/enola_gay.html?imgtype=0&oriSearch=boeing&sti=mom1o65nb517q5mi1c%7C&mediapopup=11988161) (“123rf Post”) (Last visited November 10, 2019). [Exhibit 2].

9. 123rf Post detailed above included the following text, “Editorial Use Only: This image can only be used for editorial purposes. Use of this image in advertising, commercial, or for promotional purposes is prohibited unless additional clearances are secured by the licensee. [123RF.com](http://123RF.com) does not provide any clearance services,” immediately below Copyrighted Photograph. [Exhibit 2].

10. Copyrighted Photograph included a full-image, diagonal watermark with the 123RF logo. [Exhibit 2].

11. Beginning on or about December 1, 2016, Defendants copied and posted Copyrighted Photograph, including the watermark, to the Defendants’ commercial website, [www.novafilmfest.com](http://www.novafilmfest.com) (Last visited January 10, 2018).

12. Defendants posted Copyrighted Photograph to the following URL:

- [www.novafilmfest.com/plan-your-visit1](http://www.novafilmfest.com/plan-your-visit1) (Last visited January 10, 2018). [Exhibit 3].

13. Plaintiff registered Copyrighted Photograph with the United States Copyright Office on November 24, 2017 (Registration No.: V Au 1-302-275). [Exhibit 4].

#### COUNT I: INFRINGEMENT OF COPYRIGHT PURSUANT TO 17 U.S.C. §101 ET SEQ.

14. Plaintiff incorporates herein by this reference each and every allegation contained in each paragraph above.

15. Plaintiff is and at all relevant times has been, the copyright owner or licensees of exclusive rights under United States copyright with respect to Copyrighted Photograph, which is the subject of a valid and complete application before the United States Copyright Office for Certificate of Copyright Registration by the Register of Copyrights.
16. Among the exclusive rights granted to Plaintiff under the Copyright Act are the exclusive rights to reproduce and distribute Copyrighted Photograph to the public.
17. Plaintiff is informed and believes that Defendants, without the permission or consent of Plaintiffs, copied and displayed the Copyrighted Photograph on Defendants' commercial website, [www.novafilmfest.com](http://www.novafilmfest.com). In doing so, Defendants violated Plaintiff's exclusive rights of reproduction and distribution. Defendants' actions constitute infringement of Plaintiff's copyright and exclusive rights under copyright.
18. Plaintiff is informed and believes that the foregoing act of infringement was willful and intentional, in disregard of and with indifference to the rights of Plaintiff.
19. Upon information and belief, Mico is the dominant influence at Violent Hues, and determined and/or directed the policies that led to the infringements complained of herein. Accordingly, Mico is jointly and severally liable for any direct copyright infringement committed by Violent Hues. *See Broad. Music, Inc. v. It's Amore Corp.*, No. 3:08CV570, 2009 WL 1886038 (M.D. Pa. June 30, 2009), citing *Sailor Music v. Mai Kai of Concord, Inc.*, 640 F. Supp. 629, 634 (D.N.H.1984). Upon further information and belief, Mico maintained the right and ability to control the infringing activities of Violent Hues, and had a direct financial interest in those activities by virtue of his equity ownership in the companies. Accordingly, Mico is vicariously liable for any copyright infringement committed by Violent

Hues. *See, e.g., Broad. Music, Inc. v. Tex Border Mgmt.*, 11 F. Supp. 3d 689, 693-94 (N.D. Tex. 2014).

20. As a result of Defendants' infringement of Plaintiff's copyrights and exclusive rights under copyright, Plaintiff is entitled to actual damages, including any profits realized by Defendants attributable to the infringements, pursuant to 17 U.S.C. § 504(b) for Defendant's infringement of Copyrighted Photograph.

COUNT II: REMOVAL AND ALTERATION OF INTEGRITY OF COPYRIGHT  
MANAGEMENT INFORMATION PURSUANT TO 17 U.S.C. §1202

21. Plaintiff is informed and believe that Defendants, without the permission or consent of Plaintiff, knowingly and with the intent to conceal infringement, intentionally removed the copyright management information from Plaintiff's Copyrighted Photograph before displaying Copyrighted Photograph on Defendants' commercial website, [www.novafilmfest.com](http://www.novafilmfest.com). In doing so, Defendant violated 17 U.S.C. § 1202(a)(1) and (b)(1).
22. As a result of Defendants' actions, Plaintiff is entitled to actual damages or statutory damages pursuant to 17 U.S.C. § 1203(c). Plaintiff is further entitled to his attorneys' fees and costs pursuant to 17 U.S.C. § 1203(b)(5).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. Declaring that Defendants' unauthorized conduct violates Plaintiff's rights under the Federal Copyright Act;
- B. Immediately and permanently enjoining Defendants, their officers, directors, agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with them from copying and republishing

Plaintiff's Copyrighted Photograph without consent or otherwise infringing Plaintiff's copyright or other rights in any manner;

- C. Ordering Defendants to account to Plaintiff for all gains, profits, and advantages derived by Defendant by their infringement of Plaintiff's copyright or such damages as are proper;
- D. Awarding Plaintiffs actual and/or statutory damages for Defendants' copyright infringement in an amount to be determined at trial;
- E. Awarding Plaintiffs their costs, reasonable attorneys' fees, and disbursements in this action, pursuant to 17 U.S.C. § 1203(b)(3), and § 1203(b)(5); and
- F. Awarding Plaintiffs such other and further relief as is just and proper.

JURY DEMAND

Plaintiff hereby demand a trial by jury on all claims for which there is a right to jury trial.

Dated: November 13, 2019

/s/ David C. Deal  
David C. Deal (VA Bar No.: 86005)  
The Law Office of David C. Deal, P.L.C.  
P.O. Box 1042  
Crozet, VA 22932  
434-233-2727, Telephone  
*Counsel for Plaintiff*

EXHIBIT 1



EXHIBIT 2

PHOTOS VECTORS FOOTAGE AUDIO DISCOVER EVO

123RF

Possible alternative: enl gay (4317)

Enola Gay Stock Photos

Sort by: Relevance

Stock Photo - CHANTILLY, VIRGINIA - OCTOBER 10: Boeing B-29 Superfortress Enola Gay. Photographed inside the National Air and Space Museum's Steven F. Udvar-Hazy Center. October 10,2011 in Chantilly, Virginia.

CHANTILLY, VIRGINIA - OCTOBER 10: Boeing B-29 Superfortress Enola Gay. Photographed inside the National Air and Space Museum's Steven F. Udvar-Hazy Center. October 10,2011 in Chantilly, Virginia.

Editorial Use Only. This image can only be used for editorial purpose. Use of this image in advertising, commercial or for promotional purposes is prohibited unless additional clearances are secured by the licensee. 123RF.com does not provide any clearance service.

Share

Image ID : 11988161

Media Type : Stock Photo (Editorial image)

Copyright : Jan Hanus

Stock Photo Keywords

aeroplane air aircraft airplane airport aluminium atomic aviation boeing bomb center cockpit Show More

Similar Stock Photos

Editorial License Extended License Additional Multi-seat License

Resolution

Print Size

Credits

Web Use (72dpi)

☐ S JPG 450 x 300 px 6.25" x 4.17" 1

☐ M JPG 847 x 565 px 11.76" x 7.85" 2

Web or Print Use (300dpi)

☐ ML JPG 1678 x 1119 px 5.59" x 3.73" 3

☒ L JPG 2508 x 1672 px 8.36" x 5.57" 4

☐ XL JPG 3831 x 2554 px 12.77" x 8.51" 5

☐ XXL JPG 3931 x 2621 px 13.1" x 8.74" 6

☐ XXXL TIFF 4913 x 3276 px 16.38" x 10.92" 10

Social Media Use

☐ Custom Size

Edit with 123RF Editor 6

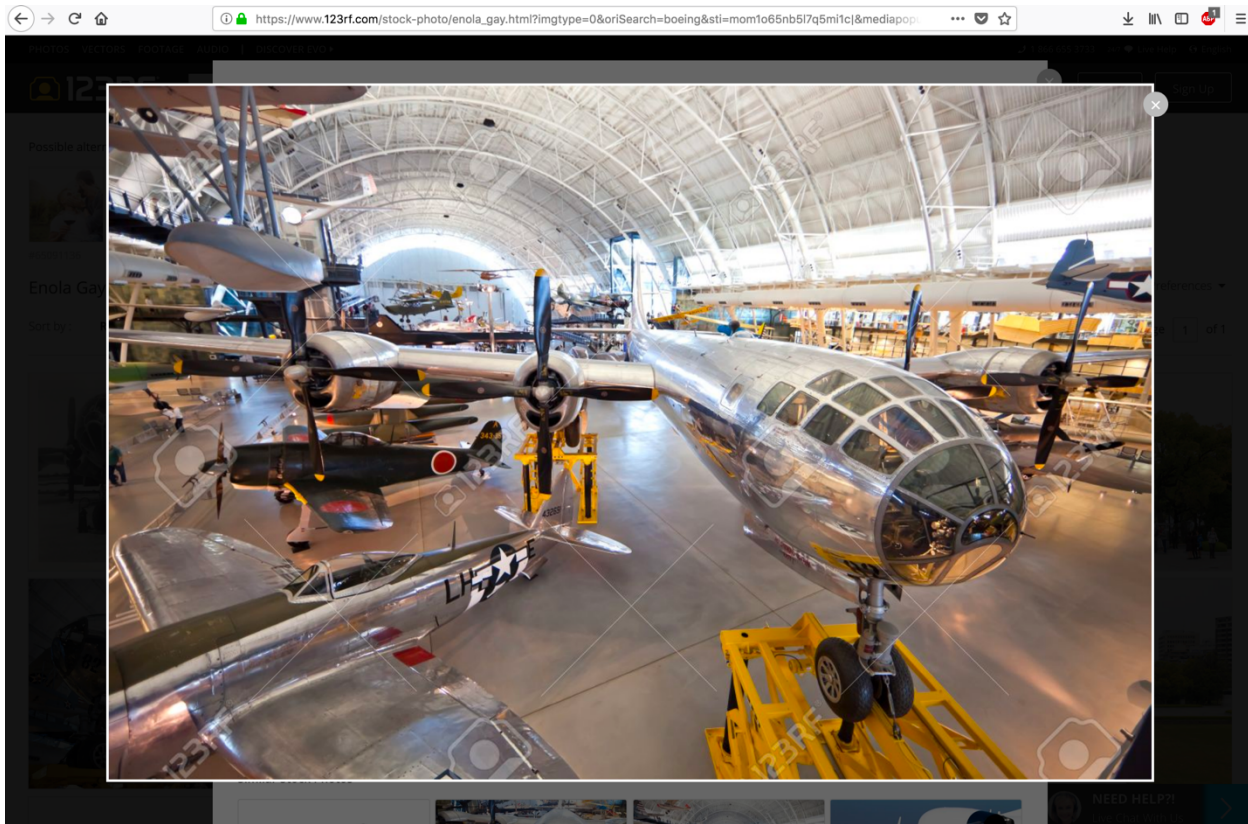
Download

Credits/Subscription FAQ | License summary | Editorial FAQ

NEED HELP?!

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### EXHIBIT 3

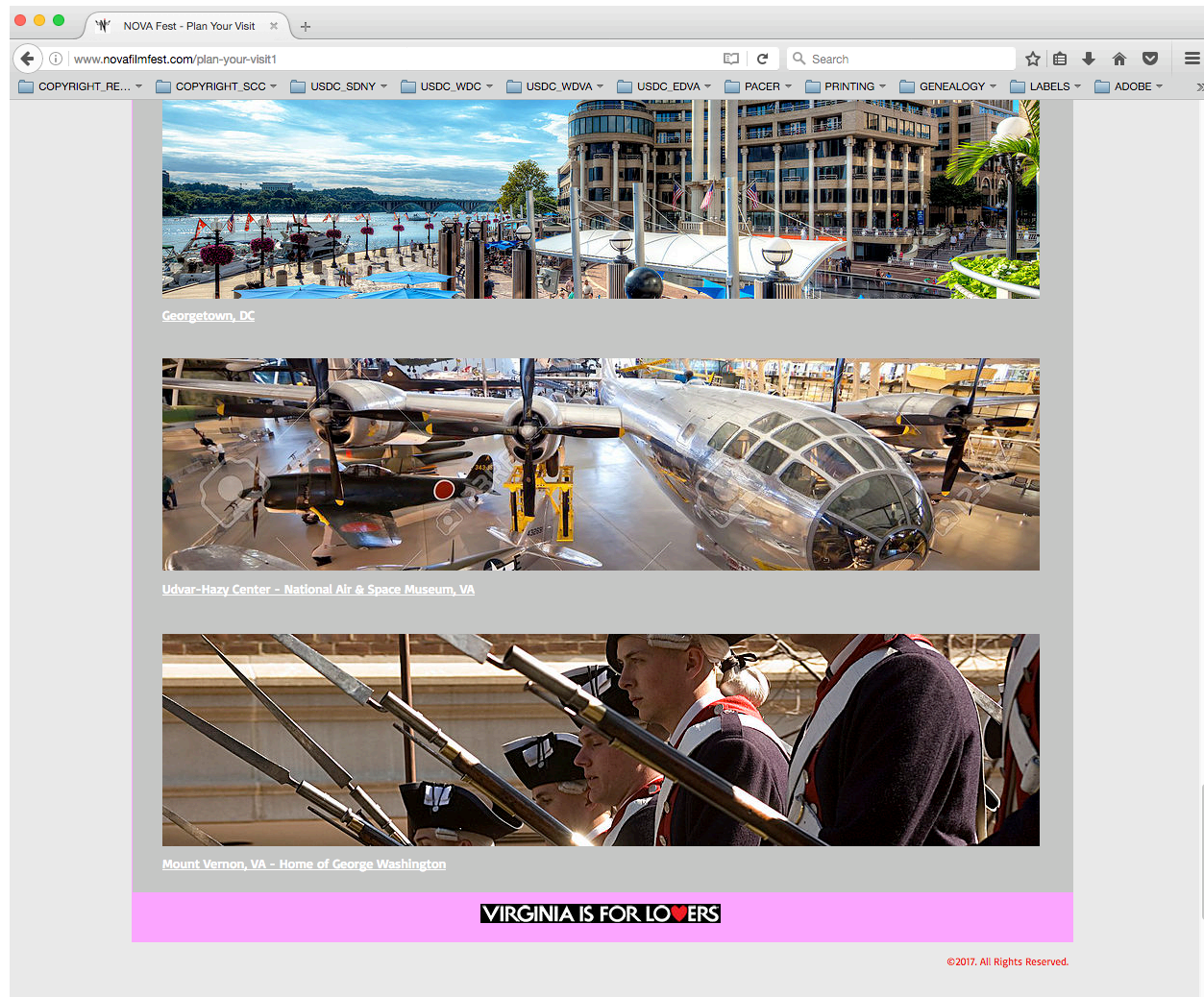





EXHIBIT 4

**Certificate of Registration**

 This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Karen Lynch Clayworth*  
Acting United States Register of Copyrights and Director

**Registration Number**  
**VAu 1-302-275**  
**Effective Date of Registration:**  
November 24, 2017

**Copyright Registration for One Work by One Author**  
Registration issued pursuant to 37 CFR §202.3

**Title** \_\_\_\_\_

**Title of Work:** Boeing B-29 Superfortress Enola Gay

**Completion/Publication** \_\_\_\_\_

**Year of Completion:** 2011

**Author** \_\_\_\_\_

- Author:** Jan Hanus  
**Author Created:** photograph  
**Citizen of:** United States  
**Year Born:** 1974

**Copyright Claimant** \_\_\_\_\_

**Copyright Claimant:** Jan Hanus  
2331 Glade Bank Way, Reston, VA, 20191, United States

**Certification** \_\_\_\_\_

**Name:** Jan Hanus  
**Date:** November 24, 2017

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